

**BILL #** SB 1267

**TITLE:** DNA testing; arrest

**SPONSOR:** Gray, C.

**STATUS:** As Amended by Senate APPROP

**PREPARED BY:** Jay Chilton

## **FISCAL ANALYSIS**

### **Description**

As amended, the bill would require any person arrested for a felony offense, or arrested for a misdemeanor and transported to a law enforcement agency or jail, to submit a deoxyribonucleic acid (DNA) sample for testing and to be entered into the state's central repository of DNA profiles. The bill would also give courts the option to order all misdemeanor arrestees to submit DNA samples under certain circumstances. The requirement would begin on January 1, 2008. Currently, only convicted felony offenders are required to submit to DNA testing.

The bill also increases the penalty assessment on fines, penalties, and forfeitures imposed by the courts and deposited into the Arizona Deoxyribonucleic Acid Identification System Fund from 3% to 8%.

### **Estimated Impact**

At a minimum, the bill is estimated to result in an additional Department of Public Safety (DPS) operating cost of \$625,000 from the Arizona DNA Identification System Fund in FY 2008, which would grow to \$1.25 million once the bill is fully implemented in FY 2009. This minimum cost only covers felony offenses.

While unlikely, the bill could also result in as many as 50,000 misdemeanor tests. With these 50,000 tests, the bill's total cost would rise to \$1.9 million in FY 2008 and \$3.75 million in FY 2009. While some misdemeanor arrestees will be tested, it is difficult to predict that number in advance.

DPS estimates the operating cost of the bill at \$3.75 million with all 50,000 misdemeanor offenders being tested.

The above figures only include additional operating costs to conduct the tests. In addition to these operating costs, DPS believes the expanded testing would result in a capital cost of \$8 million to \$10 million. Considering the uncertainty over the number of new tests that would result from the bill, this estimate requires further review.

The increase in the penalty assessment on fines, penalties, and forfeitures would increase revenues to the DNA Identification System Fund by approximately \$4.5 million. The additional revenues would be sufficient to fund the increase in operating costs created by the bill, but would not necessarily provide enough for any additional capital costs.

### **Analysis**

DPS received 36,000 new samples for DNA profiling in FY 2006. This number includes only felony convictions, as currently only convicted felony offenders are required to submit DNA samples for profiling. DNA testing requires a collection kit, laboratory profiling, and entry into the database. DPS estimates the total cost to collect, profile, and enter each sample into the database to be approximately \$50.

According to DPS estimates, there are approximately 25,000 new felony arrestees each year who are not currently required to submit to DNA testing. Under this bill, all of these felony arrestees would be required to submit to DNA testing. At a minimum, the bill would result in a cost of \$1.25 million to administer 25,000 new DNA tests at \$50 per test.

In addition to felony arrestees, the bill also states that all persons arrested for a misdemeanor and transported to a law enforcement agency or jail would be required to submit a DNA test. DPS estimates 50,000 new misdemeanor arrestees each

year. Under this scenario, the bill would result in a maximum cost of \$3.75 million to administer 75,000 tests at \$50 cost per test—25,000 for felony arrestees and 50,000 for misdemeanor arrestees.

These estimates are based on the number persons arrested for the first time but not convicted in FY 2006. The estimate of 50,000 misdemeanor tests assumes that all persons arrested for a misdemeanor are also transported to a law enforcement agency or jail, which is unlikely. The actual frequency at which persons arrested for a misdemeanor are also transported to a law enforcement agency or jail is unknown.

The bill gives courts discretion regarding whether or not to order misdemeanor arrestees to submit DNA samples in certain circumstances. The frequency with which courts would order misdemeanor arrestees to submit DNA samples is unknown. However, since test costs are minimal to local governments, the bill may provide an incentive to local governments to order testing for all misdemeanor arrestees.

DPS indicates that in order to account for the increased workload caused by the expansion of DNA testing by 75,000 tests, it would need 18 additional FTE Positions at a cost of \$1.4 million and laboratory equipment in the amount of \$2 million. These costs for personnel and equipment are included as part of DPS' overall cost estimate of \$3.75 million per year. DPS currently has 9.5 FTE Positions working in DNA testing and spends an estimated \$2.1 million per year on this effort. The 18 additional staff would represent a 189% increase in the staffing level for DNA testing.

In addition to the need for new staffing, DPS reports that expanded DNA testing will require capital expenditures of \$8 to \$10 million. This cost estimate includes the following 3 projects: 1) conversion of the existing property and evidence warehouse into laboratory space, 2) construction of a new property and evidence warehouse, and 3) construction of a parking structure. The increase in the penalty assessment may not be sufficient to cover these capital costs. The actual capital cost would depend on the number of new tests.

The bill as amended increases the penalty assessment on fines, penalties, and forfeitures imposed by the courts and deposited into the Arizona DNA Identification System Fund from 3% to 8%. In FY 2006, this 3% assessment generated \$2.4 million for the fund. In FY 2008, it is estimated that the 3% assessment will generate \$2.7 million. If the penalty assessment increases to 8% in FY 2008, it will generate an estimated \$7.2 million, or a \$4.5 million increase above the current assessment.

As with fingerprinting, DPS manages the state's database of DNA profiles and is the only agency that enters DNA profiles into the database. Other law enforcement agencies may analyze DNA samples from crime scenes to compare to the state database managed by DPS.

### **Local Government Impact**

Because people arrested by any law enforcement agency in the state would be required to submit samples for DNA testing, this bill would have an impact on local governments. The impact is estimated to be small, though the magnitude cannot be determined. The DNA sample collection kit would be administered by the arresting law enforcement agency and transmitted to DPS for analysis and entry into the database. The collection kit consists of a mouth swab to collect the sample and a postage-paid envelope to transmit the sample to DPS.

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